

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

February 10, 2015

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, B. Larson, E. Carter, T. Halterman, E. Fordham

MEMBERS ABSENT: W. German, excused; S. Warmington, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: A. Chilcote, 227 E. Holbrook Avenue; M. Grasmeyer, Apple Ridge Builders, 1456 Burton Road; J. Schrier, City Attorney

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of January 14, 2015 be approved was made by B. Larson, supported by E. Fordham and unanimously approved.

PUBLIC HEARING

Hearing; Case 2015-02: Request for a variance from Section 404 of the Zoning Ordinance to allow a building addition with a rear yard setback of 24 feet in an R-1, Single Family Residential District at 227 E. Holbrook Avenue, by Alexandria Chilcote. M. Franzak presented the staff report. The property is located in an R-1, Single Family Residential district. The zoning ordinance requires all buildings in R-1 districts be set back at least 30 feet from the rear property line. The current rear setback is approximately 40 feet. The owner would like to put an addition on the rear of the house. They are seeking a variance to allow the rear setback to be 24 feet instead of thirty. The applicant states that there is a hardship because the homeowner is handicapped and needs to utilize the hot tub for therapy, and there is not enough room on the property to meet the ordinance. Notice was sent to all property owners within 300 feet. Staff has not received any comments from the public. M. Franzak stated that the Michigan Planning and Enabling Act states that the claimed hardship has to be with the land and not the property owner, and reminded the board that the variance would stay with the property forever.

M. Grasmeyer of Apple Ridge Builders stated that he was the builder on the proposed application and that the homeowner was seeking to put a 16 x 16 foot addition on the back of her home for the purpose of enclosing a hot tub for therapeutic use. He stated that in order to fit the hot tub in and be able to have the door open correctly, the lesser setback was needed. A. Chilcote stated that her foot had been injured in a car accident and that the hot tub was needed for rehabilitation. B. Larson asked if the proposed structure was going to be enclosed and out of public view. M. Grasmeyer stated that the addition would be located in the back yard.

A motion to close the public hearing was made by B. Larson, supported by E. Fordham and unanimously approved.

B. Larson stated that the variance made sense. He stated that the homeowner had invested in a home in the City, desired to expand the living area for personal reasons, and came up six feet short of the setback. He stated that after reviewing the findings of fact he was in favor of the request. E. Fordham inquired as to whether the alley running adjacent to the property was City owned and M. Franzak affirmed that it was. Discussion was held regarding side setbacks and M. Franzak reminded M. Grasmeyer that the side setback requirement would have to be met as well. B. Larson confirmed that a drawing was required prior to granting the building permit to insure that the required setbacks were met. M. Franzak stated that the ZBA application was for the rear setback, and did not include a setback for the side along the alley. M. Franzak clarified the ordinance intent, defined hardship, and stated that the variance remained with the property indefinitely. E. Fordham stated that he didn't believe the variance would cause hardship to the neighborhood. M. Franzak stated that the challenge in determining hardship was to define unique characteristics within a parcel that prevented a homeowner from meeting the ordinance requirement. R. Hilt stated that the hardship was created by the ordinance. Mr. Grasmeyer provided a rough drawing of his plan to the board. B. Larson stated that the board was being advised against the variance, but felt it was in the best interest of the City and the homeowner to approve.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the request for a use variance from Section 404 of the Zoning Ordinance to allow a building addition with a rear yard setback of 24 feet in an R-1, Single Family Residential District at 227 E. Holbrook Avenue be approved was made by B. Larson, supported by R. Hilt(?), and unanimously approved.

OLD BUSINESS

None

OTHER

Findings of Fact in ZBA cases - The city attorney discussed the findings of fact with board members, and their responsibility to ensure the conditions of hardship are met when considering Zoning Board of Appeal cases.

There being no further business, the meeting was adjourned at 4:45 p.m.

